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April 11, 1988

Mr. Patrick Sharp
Compliance Specialist
Pre-Merger Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
Sixth Street and Pennsylvania Avenue
Washington, D.C. 20580

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FBI
COMM
FEDERAL TRADE COMMISSION

VIA FACSIMILE

Dear Mr. Sharp:

As I advised you in our telephone conversation today, a trust consisting of corporate pension plans and government employee retirement systems (the "Trust") is about to acquire title to thirty-eight separate buildings and the land underlying them (collectively the "Property") as part of a single transaction. The buildings are currently approximately 98% occupied. At the present time, the buildings comprising the Property are owned by three inter-related partnerships. None of the plans or systems within the Trust is related in any way to the partnerships which presently own the Property, or to any of the partners in those partnerships.

The parties to this transaction meet the "size of the parties" test under the Hart-Scott-Rodino Act (the "Act").

The purchase price for the Property is \$49,000,000. Although we have not agreed with the Seller to allocate the price, we have internally determined that the portion of the price to be allocated to the office space component of the Property (including the improvements as well as a pro-rata allocation of the underlying land) should be \$34.3 million. The portion of the purchase price to be allocated to the non-office space component of the Property (including the improvements as well as a pro-rata allocation of the underlying land) is, in our opinion, \$14.7 million. The evaluations upon which our allocations are predicated were based upon the most common techniques employed by the real estate appraisal industry in the United States.

A portion of the purchase price for the Property will be paid by taking title to the Property subject to existing mortgages with an aggregate outstanding balance at the time of closing equal to approximately \$14 million (with the remaining \$35 million being paid in cash). The holders of the mortgage indebtedness are unrelated to the Trust or the present owners.



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It is my understanding from you that the Federal Trade Commission still takes the position that office space is non-productive while non-office space is productive and, therefore, engaged in commerce. Because the value of all of the non-office space is less than \$15 million, it is my understanding that the "commerce" test is not met and, therefore, that the transaction in question is not reportable under the Act.

I would appreciate your telephoning me after your receipt of this letter to confirm verbally that my conclusions as stated in this letter are correct.

Thank you very much.

[REDACTED]

Question: Does the \$14.7 MM allocated to warehouse space include a portion of the \$14 MM assumption of the mortgage? Yes, the \$14.7 MM acquisition price includes cash and the assumption of a portion of the mortgage. (Per Stuart Katz 4-14-88)

I concur with this letter - talked to [REDACTED]
4-14-88